

REMARKS / DISCUSSION OF ISSUES

Applicants have carefully reviewed and considered the Office Action mailed on August 15, 2008, and the references cited therewith.

Claim 10 is amended. With no claims being deleted or added, claims 1-10 are now pending in this application.

35 USC§101 Rejection of the Claims

Claim 10 was rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Applicants have amended independent Claim 10 accordingly. Therefore, Applicants respectfully request that the rejection of claim 10 be withdrawn and such claim be allowed.

35 USC§102 Rejection of the Claims

The non final office action rejects claims 1-4 and 9-10 under 35 U.S.C. §102(e) patented on 03/30/2004 over US patent 6715007 to Williams et al. Applicants respectfully traverse this rejection. For reasons explained below, the claims in question are patentable under 35 U.S.C. §102 (e) over the cited reference.

Applicants do not admit that the Williams et al. patent is prior art to the present invention and reserve the right to swear behind this patent at a later date. Nonetheless, Applicants believe the claims of the present invention are distinguishable over the prior art reference.

Williams et al. in col. 6, lines 1-2 describes "controller 38 may monitor the source data rate and the sink data rate". Further, Williams et al. in col. 4, lines 26-30

describes "a task 102 establishes an initial value for the source data rate in data source 24. Similarly, a task 104 establishes an initial value for the sink data rate". Furthermore, Williams et al. in col. 6, lines 2-7 describes "buffer fill rate 54 is taken to be equal to the difference of the source data rate less the sink data rate, i.e., $R_{Fill} = R_{Source} - R_{Sink}$. In the preferred embodiment, buffer fill rate 54 is changed as a consequence of changing the source data rate or the sink data rate".

In contrast, independent claims 1 and 9 and amended independent claim 10 recite determining a filling measurement (mF) of an amount (F) of data units in the buffer (102) at a specified time instant (TI) and controlling the delay (Δ) by controlling the data rate conversion component (108) on the basis of the filling measurement (mF) and the input time measurement (mTa), which are not disclosed in Williams et al. Therefore, independent claims 1 and 9 and currently amended independent claim 10 should be found allowable, and such action is respectfully requested.

Claims 2-4 depend directly on independent claim 1, so they should also be allowable for the reasons presented above.

For the above reasons, Applicants respectfully request that the 35 U.S.C. §102(e) rejection of claims 1-4, and 9-10 be withdrawn.

35 USC§103 Rejection of the Claims

The non final office action rejects claims 5-8 under 35 U.S.C. §103(a) over Williams et al as applied to claim 1 above and further in view of the examiner. Applicants respectfully traverse this rejection. For reasons explained below, the claims in question are patentable under 35 U.S.C. §103 (a) over the cited reference.

For the reasons presented above with respect to 35 U.S.C. §102(e) rejection, dependent claim 5 and independent claims 6-8 should be found allowable.

Applicants respectfully assert that Williams et al. reference fails to support a *prima facie* case of obviousness because, the cited reference fails to teach or suggest all of the elements of the Applicants' invention, such as "data rate conversion component (108), arranged to set a ratio of the read rate (Rr) and the write rate (Rw), on the basis of the filling measurement (mF)", "input time measuring component (112) is comprised, arranged to measure an input time instant (Ta) of input of the data unit (150) in the buffer management system (100), and yielding an input time measurement (mTa)", and "controlling the delay (Δ) by controlling the data rate conversion component (108) on the basis of the filling measurement (mF) and the input time measurement (mTa)".

For the above reasons, claims 5-8 should be allowable over Williams et al. reference and Applicants request that the rejection be withdrawn.

As described above, if the Examiner is using personal knowledge or is taking Official Notice of the elements of claims 5-8 which are not found in Williams et al. patent, Applicant respectfully traverses and requests that the Examiner either provide a reference of references which describe such missing elements pursuant to M.P.E.P. § 2144, or submit an affidavit as required by 37 C.F.R. § 1.104(d) (2).

In view of the foregoing, Applicants respectfully request that the Examiner withdraw the objections and/or rejections of record, allow all the pending claims 1-10, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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